

# STATE SPONSORED COMMUNITY MEDIATION IN MA

ORIENTATION PRESENTATION THURSDAY, NOVEMBER 12, 2020

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# WHAT IS MOPC? - [WWW.UMB.EDU/MOPC](http://WWW.UMB.EDU/MOPC)

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- The MA Office of Public Collaboration, formerly the MA Office of Dispute Resolution, is the statutory state dispute resolution agency and applied research Center based at UMass Boston
- Provides services to the three branches of government through expedited procurement using inter-departmental service agreements
- Serves as a neutral forum for conflict resolution, public decision-making and consensus building on contentious public issues, and builds capacity within public agencies.
- Builds and administers evidence-based public mediation programs

# WHAT IS STATE SPONSORED COMMUNITY MEDIATION

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- A statutory program sponsored since 2013 by the State (GL ch.75, §47)
- Operates as a performance-based grant program administered by MOPC
- Provides operational funding to 12 long established non-profit community mediation centers covering all 14 counties and serving 72 court divisions
- Offers accountability for public investment through program evaluations showing annual ROIs of \$12 million through cost savings and leveraged resources

# WHAT DEFINES MA COMMUNITY MEDIATION

## AS DISTINCT FROM PRIVATE ADR PROVIDERS

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Comply with a 12-point model of standards developed with MOPC focused on service, access, quality and diversity

Are embedded as local conflict resolution resources in their local communities

Offer free and low-cost sliding fee services

Provide services through well trained volunteers who meet continuing education requirements and practice facilitative mediation

All are approved providers for the Trial Court under the Uniform Rules on Dispute Resolution

# WHO AND WHERE ARE THE CENTERS?

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- BCRHA – Berkshire County Regional Housing Authority - Pittsfield
- Cape Mediation - Orleans
- CDSC – Community Dispute Settlement Center - Cambridge
- CRG – Collaborative Resolutions Group – Greenfield
- FSCM – Family Services of Central MA – Worcester
- GBCDR – Greater Brockton Center for Dispute Resolution - Brockton
- MCC – Middlesex Community College Mediation Program – Lowell
- MMS – Metropolitan Mediation Services – Brookline
- MSI – Mediation Services of North Central MA - Leominster
- MVMP – Martha's Vineyard Mediation Program – Vineyard Haven
- MWMS – MetroWest Mediation Services - Framingham
- NSCMC – North Shore Community Mediation Center - Beverly



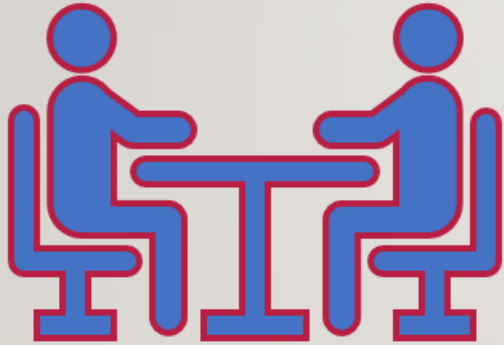
# WHO COMMUNITY MEDIATION CENTERS SERVE?

Wherever people encounter each other there can be conflict, and mediation can help resolve it in:

- Neighborhoods (e.g. noise, property, animals, lifestyle differences)
- Workplaces (e.g. co-worker and supervisor/employee disputes)
- Businesses (e.g. consumer, business/business and community/business)
- Families (e.g. couples, custody, parent/teen and elder issues)
- Communities and local government (e.g. land use, policy decision making, school district changes)
- Faith communities (e.g. policy, planning and hiring decisions affecting the community)
- Landlords/tenants and shared housing (e.g. eviction, homelessness, living conditions, condo disputes)
- Schools (e.g. between pupils, pupil/staff, among staff, parent/staff)

# SERVICES PROVIDED

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In addition to mediation, the Centers provide a range of services including:

- Restorative practices
- Conflict coaching
- Facilitation
- Re-entry support
- Conflict training
- Youth programs
- Deliberative dialogue

# IMPACTS OF COMMUNITY MEDIATION

- Helps families in conflict
- Reduces neighborhood conflict and violence
- Mitigates overcrowded courts
- Addresses youth violence and bullying
- Resolves issues leading to missed school
- Prevents criminal records among youth for minor offenses
- Supports re-entry with pre-release mediation
- Reduces homelessness
- Provides access to justice
- Promotes community building
- Supports local officials with public problems



# IF YOU WANT TO KNOW MORE...

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Together with MOPC the  
Centers have recently  
formed *Resolution  
Massachusetts*

You can read more about  
the Centers and their  
services at:



[www.resolutionma.org](http://www.resolutionma.org)

Mediation is a voluntary and confidential process facilitated by a neutral third party (the mediator) who prioritizes self determination and informed consent of the parties to reach a mutually agreeable outcome or progress towards one.

It is not:

- Adjudicatory – the mediator does not take sides, make recommendations or direct the parties
- A reluctant compromise – parties find out what is most important to them and how best to achieve it

## WHAT IS MEDIATION (AND WHAT IT ISN'T)

# 5 PRINCIPLES OF MEDIATION

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- **Voluntary Participation-** Participants enter into the process of mediation freely and may withdraw from the process at any time
- **Informed Consent-** Disputants have the right of full access to information about legal and social service options available to them before entering into the mediation process
- **Self-Determination-** Disputants have the right to define their issues, needs and solutions and to determine their own terms of agreement without interference
- **Impartiality-** All participants have the right to fair, open and equal treatment, free of bias, prejudice or conflict of interest
- **Confidentiality-** All information will be kept within the Program, with any exceptions being agreed upon beforehand. Only a final agreement is released to directly concerned parties, which may include the court or agency referral source, if agreed upon by the parties prior to mediation.

# BENEFITS OF MEDIATION

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Aside from the often touted “win-win solution”

- It gives the parties a sense of control over the outcome of their dispute
- Outcomes reached collaboratively are more lasting/more adhered to
- Gives parties a chance to speak and be listened to – which often has not happened before
- It allows for creative, flexible outcomes
- It is usually cheaper and more timely than legal action and can happen preventatively as well as reactively
- It helps build or retain relationships, especially important to ongoing ones

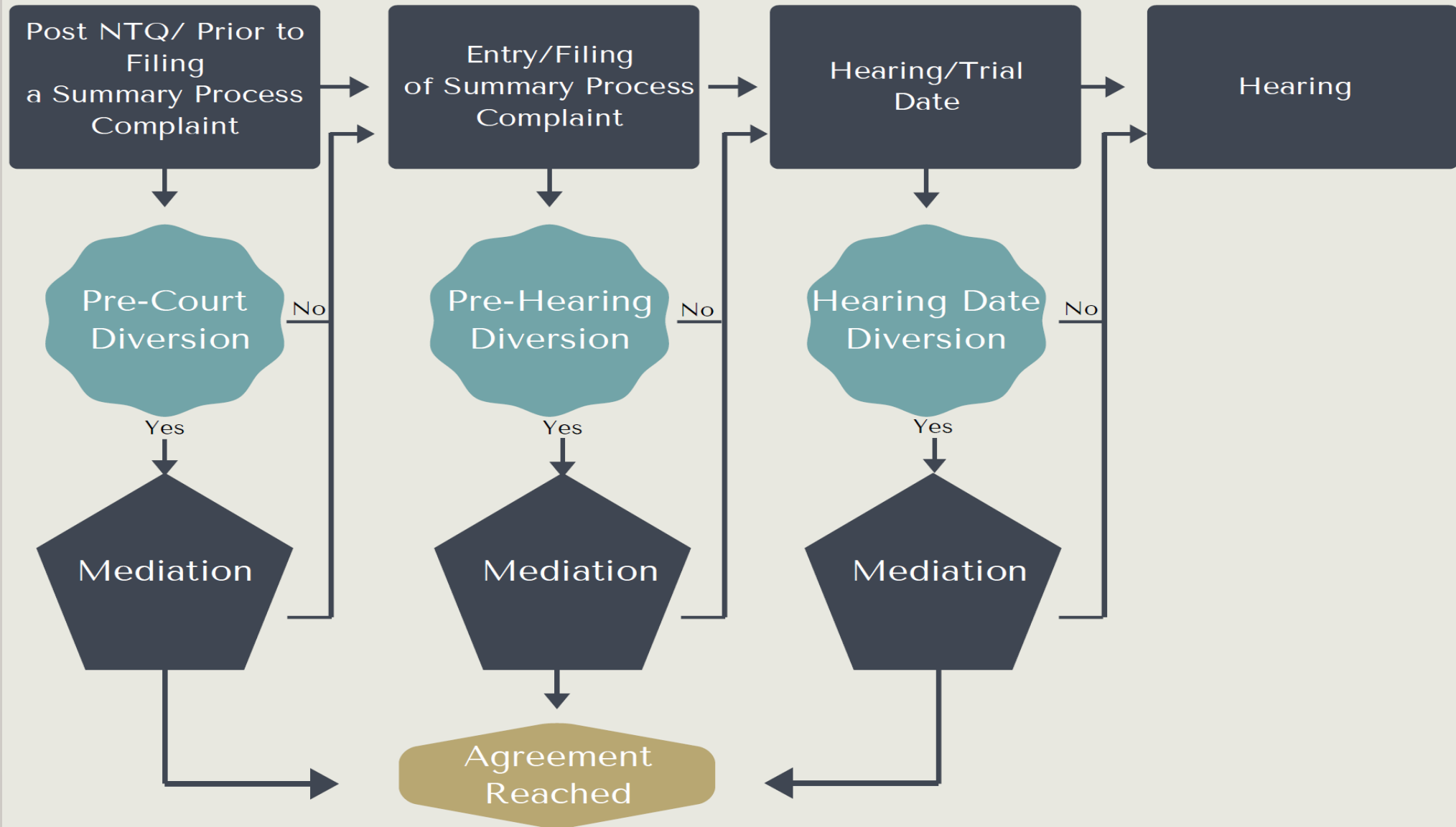
# EVICTIION DIVERSION INITIATIVE

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# INTERRELATED MEDIATION OPTIONS



# UNIFORM DISPUTE RESOLUTION RULE 9: ETHICAL STANDARDS

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THESE ETHICAL STANDARDS ARE DESIGNED TO PROMOTE HONESTY, INTEGRITY AND IMPARTIALITY BY ALL NEUTRALS AND OTHER INDIVIDUALS INVOLVED IN PROVIDING COURT-CONNECTED DISPUTE RESOLUTION SERVICES.



# UNIFORM DISPUTE RESOLUTION

## RULE 9: ETHICAL STANDARDS

### **(C) INFORMED CONSENT**

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The neutral shall make every reasonable effort to ensure that each party to the dispute resolution process (a) understands the nature and character of the process, and (b) in consensual processes, understands and voluntarily consents to any agreement reached in the process.

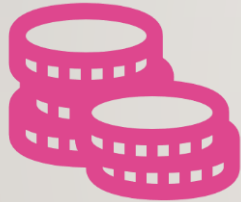
- (iii) Where a party is unrepresented by counsel and where the neutral believes that independent legal counsel and/or independent expert information or advice is needed to reach an informed agreement or to protect the rights of one or more of the parties, the neutral shall so inform the party or parties.
- (iv) A neutral may use his or her knowledge to inform the parties deliberations, but shall not provide legal advice, counseling, or other professional services in connection with the dispute resolution process.
- (vii) In dispute intervention, in cases in which one or more of the parties is not represented by counsel, a neutral has a responsibility, while maintaining impartiality, to raise questions for the parties to consider as to whether they have the information needed to reach a fair and fully informed settlement of the case.

# CURRENT CASE EXAMPLE

- In a non-payment eviction case, a landlord was alleging a household consisting of a couple and their minor three children had not paid rent for approximately 2 years, equaling \$18900.00 in rent arrears. The tenant in turn had filed an Answer and was claiming the landlord had not addressed a myriad of repair needs, including but not limited to: rat infestation, lack of hot water, and a floor, which the tenant had fallen through to the basement. The parties eventually agreed the landlord would waive all rent arrears, court costs, and allow “use and occupancy” for November and December, as long as, the household vacated by January 1. This resulted in the tenants not having a judgment entered against them, over two months to find alternative housing, with the landlord avoiding levy of execution and storage charges.

# PRE-COURT MEDIATION BENEFITS

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Cost effective



Resolutions are reached  
quicker than a traditional  
court process



Allows more time to access  
necessary resources




# WHEN TO REFER TO MEDIATION

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## **After RAFT eligibility is determined by HCECs or RAA staff:**

- The parties cannot reach agreement after receiving assistance from the RAA and/or HCEC
- The “RAFT math” works but the benefit is not enough on its own to resolve the issue (RAFT funds would make a difference but the landlord is resistant to signing the RAFT contract because they may have to forego rent arrears or accept lower future rent)
- Both or one party is represented by an attorney
- Parties request mediation to resolve the dispute

## **You may also refer parties to mediation if (all EDI agencies):**

- High level of conflict between the parties – relationships are frayed
  - Communication problems exist between the parties
  - Different levels of knowledge and access to information
  - Issues are complex, involve multiple parties and/or require specialized expertise
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# INTRODUCING MEDIATION TO PARTIES

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- Rather than asking if parties want to mediate (as they may not know what that entails)
  - Indicate that you will be making a referral to a CMC so parties can learn more about mediation and be helped to resolve issues with a neutral third-party
  - This will provide tenants and landlords the opportunity to talk to a case coordinator and decide if mediation is right for them
  - Examples of what can be mediated
    - Payment arrangements
    - Realistic move-out plans
    - Communication issues
    - Conversations around repairs

# MEDIATION REFERRAL PROCESS

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Regional/local arrangements and relationships are key. In general:

- Referring agencies will use the case referral form to send parties to the case coordinator at their designated local Community Mediation Center (CMC)
- Referring agencies will receive confirmation from the CMC that the case has been received
- HCEC's may be contacted by the case coordinator if additional resources are needed to settle the case (cases will be put on hold while RAFT eligibility is determined)
- If a mediated agreement is reached, the landlord and tenant will take it to the HCEC

# Q&A

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# CONTACT INFORMATION

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